

# Notice of Allowability

Application No.

09/765,555

Examiner

Medina A. Ibrahim

Applicant(s)

BARBAS ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07/20/06.
2. ☒ The allowed claim(s) is/are 1, 4-8, 13-16, 18-22, 28-30, 36, 42-44, 46, 48, 50, 52-53, 56-59, 61-63, 65-66, 70-72, 74, 76-78, 83, 88, 91-95, 98, 133-135, renumbered as 1-54, respectively.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James Mullen III on 07/20/06.

The application has been amended as follows:

In The Claims:

Claim 6 (Currently amended). The method of claim 1, wherein the target nucleotide sequence is at the 5' regulatory region, 3' regulatory region (upstream of, downstream of], or within the coding region of the target gene.

At claim 7, "PNA" is deleted.

At claim 8, "upstream" is replaced with ---at the 5' regulatory region----

At claim 18, "encodes myoinositol 1-phosphate synthase" is replaced with ----is Apetala3 (Ap3)----

At claim 22, ---or repressed--- has been inserted before the period.

Claims 37-41 are cancelled.

Claim 42 (Currently amended). The method of claim 1, wherein the zinc finger protein comprises [at least] two 3-finger regions separated by a linker region, [and] wherein the linker region [between any of said two 3-finger regions] is from 2 to 10 amino acid residues in length.

At claim 43, "between any said two 3-finger regions" is deleted.

Claim 51 is cancelled.

Claim 52 (Currently amended). The method of claim 22, [51] wherein the [modulation of the gene] expression of the protein is activated at least two fold.

Claim 53 (Currently amended). The method of claim 22, [51] wherein the [modulation of the gene] expression of the protein is repressed at least five fold [repression].

Claims 54-55 are cancelled.

At claims 56 and 57, "claim 4" is replaced with ---claim 1---.

Claim 59 (Currently amended). The method of claim 1, wherein the expression vector [of the zinc finger protein is controlled by] further comprises a tissue specific promoter [and whereby tissue specific modulation of the target gene expression is obtained].

At claim 61, --stably--- is inserted before "expressed".

Claim 64 is cancelled.

At claim 65, ---via a targeting peptide--- has been inserted before the period.

At claim 70, "encoding said compound " in lines 3-4, is replaced with ---encoding an enzyme that catalysis syntheses of said compound---

At claim 72, "AP3" is replaced with ---a Myoinositol 1-phosphate synthase---.

At claim 74, "ZFPm1, ZFPm2, ZFPm3, ZFPm4, and ZFPAp3" is replaced with ----  
SEQ ID NO: 38, SEQ ID NO: 39, SEQ ID NO: 40, SEQ ID NO: 41, and SEQ ID NO: 42-  
--.

Claim 91 (Currently amended). The stably transformed plant cell of claim 76 [78],  
wherein said promoter is a constitutive promoter [zinc finger protein is constitutively  
expressed].

Claim 92 (Currently amended). The stably transformed plant cell of claim 76 [78],  
wherein said promoter is an inducible promoter [zinc finger protein is inducibly  
expressed].

Claim 93 (Currently amended). A stably transformed plant tissue comprising the  
expression vector of claim 74 [, which tissue comprises the stably transformed plant cell  
of claim 76].

Claim 94 (Currently amended). A stably transformed plant seed comprising the  
expression vector of claim 74 [, which seed comprises the stably transformed plant cell  
of claim 76].

Claim 98 (Currently amended). A plant stably [that is regenerated from a plant]  
transformed with the expression vector of claim 74.

Claims 99-100 are cancelled.

Claims 136-137 are cancelled.

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**Contact Information**

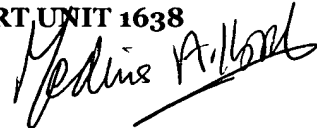
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Medina A. Ibrahim whose telephone number is (571) 272-0797. The Examiner can normally be reached Monday -Thursday from 8:00AM to 5:30PM and every other Friday from 9:00AM to 5:00 PM. Before and after final responses should be directed to fax nos. (703) 872-9306 and (703) 872-9307, respectively.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anne Marie Grunberg, can be reached at (571) 272-0975.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/21/06

**MEDINA A. IBRAHIM  
PRIMARY EXAMINER  
ART UNIT 1638**

A handwritten signature in black ink, appearing to read "Medina A. Ibrahim", is written over the printed name and title.